THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.2029 of 2006

Dated: 02-02-2006

Y. Bhaskara Venkata Seetha Ramaiah.

..... PETITIONER

AND

The Executive Engineer, Kadapa District, and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION NO.2029 of 2006

ORDER:

The petitioner statedly is the absolute owner of a house bearing No.10/523 to 10/529 situated in Ward No.10 of Proddutur Municipality in Kadapa District. In connection with the widening of Mypadu-Nellore-Ballari-Mumbai road, the first respondent approached the petitioner to give consent for parting with the land promising to give exemption from municipal building bye laws regarding set back. The petitioner is not wiling to give consent. The petitioner further alleges that the respondents came to the building and marked a portion of the building for the said purpose. Apprehending coercive action without due process of law, the present writ petition is filed.

The learned Assistant Government Pleader for R & B and the learned Standing Counsel for Proddutur Municipality, after getting instructions in the matter, submit that the road widening work is being taken up by extending the road on the land belonging to R & B Department and the petitioner's property is not being affected.

This submission is however belied by a pro forma consent which was given to the petitioner and which is annexed to the writ petition.

This Court in **P.Lakshmana Rao v. Executive Officer** and **M.Madhavi Latha v. Rajendranagar Municipality** and **Srichand Rohra v. Commissioner, Municipal Corporation of Hyderabad** has held that whenever a private property is required for laying road, widening existing road or for any public purpose, public authorities - be it local body, Corporation or Government - cannot highhandedly dispossess the petitioner or owners of the land. They have to necessarily follow the procedure either by negotiating with the owners or acquiring the land as per Section 174 of the Andhra Pradesh Municipalities Act, 1965 ('the Act' for brevity) in case the owners are not inclined to give willingness to part with the land voluntarily. The respondent authorities cannot high-handedly take coercive action against petitioner.

Accordingly, the writ petition is disposed of observing that unless and until requisite proceedings under Section 174 of the Act are initiated, the petitioner's right to enjoy his property cannot be denied nor the respondent officials can demolish the premises of the petitioner, without notice. No costs.

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(**V.V.S.RAO, J**)

2nd February, 2006

Note:

Issue operative portion,

by wire, at party's costs.

B/o

ghn